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Each class member is receiving 340 hours of pay. As spelled out in Plaintiffs' Memorandum in Support of Settlement, this is full recovery according to the view of Judge Norton and a majority of other courts. The issue involves whether the 60-day backup provision means pay for 60 days or pay for the number work days falling within a 60-calendar-day period. The 60-day notice period is 8 1/2 weeks, and with a five-day work-week that amounts to 340 work hours. That is what is being paid here and was paid in *Washington v. Aircap Industries, Inc.*, 866 F.Supp. 307 (D.S.C. 1994). Measured against the theoretical maximum of 60 work days (480 hours), the actual recovery is still 70%.

between the Union IUE-CWA and the Company Enersys. The other litigation besides the The WARN Act fund was created by the overall settlement of \$7,750,000 for all litigation It is also reasonable in light of the excellent recovery going directly to the class members, measured as a percentage fee or as compared to a "lodestar" fee which would probably be higher. expenses, the \$500,000 fee requested is 24%. As shown below, this is reasonable whether WARN Act case. That fund is \$2.36 million. Based on the fund amount of \$2.06 million net of costs and expenses of \$300,000 to be paid from the common fund created by settlement of this Class counsel petition the Court to approve an award of attorneys' fees of \$500,000 and

PLAINTIFFS' PETITION FOR ATTORNEYS' FEES AND COSTS

IUE-CWA, AFL-CIO, its Local 175, and)	Case No. 3:01-4766-10
JOHN LEVY,)	
Plaintiffs,)	
-vs.-)	
ENERSYS, INC.,)	
Defendant,)	

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION
LARRY W. PROPER, CLERK
CHARLESTON, SC
JUL 14 2004

FILED

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The overall settlement amount of \$7,750,000 is being allocated as follows:
 Employees will receive direct payments totaling approximately \$6.15 million. This consists of approximately \$1.25 million from the Gainssharing arbitration, based on the arbitrator's award, approximately \$1.55 million in this proposed WARN Act settlement, explained below, and approximately \$3.35 million from the NLRB case, as approved by the NLRB. The additional money is \$500,000 requested as fees and \$300,000 requested as expenses in the WARN Act case, \$300,000 for other expenses and fees incurred by IUE-CWA in the various controversies involving Enersys, \$400,000 for employer-side FICA payments, and \$100,000 as reserve for unforeseen claims.

This case was the culmination of a series of bitter battles between the plaintiff Union and the defendant Company. In order to achieve the results in this case, plaintiffs had to overcome strong resistance of defendant and its then counsel. That resistance, it is now clear, included concealing or falsifying evidence, firing union officials, and repeatedly violating federal labor laws.

The conflict dates back to the beginning of the Union's effort to organize the Sumter plant. After the Union won a contested election and was certified as collective bargaining representative in 1995, contentious negotiations resulted in a contract in 1998. A dispute arose almost immediately over calculation of "Gainssharing," a production bonus plan created by the

The litigation

WARN Act case included an arbitration over a bonus plan (the "Gainssharing" arbitration) and an NLRB case. These cases are not directly within this Court's jurisdiction but the Court is being informed about the overall settlement because the class members in this case are also receiving payments under other parts of the settlement, and to enable the Court to review the WARN Act settlement in full context.²

collective bargaining agreement. The dispute went to arbitration and eventually resulted in three arbitration awards in the Union's favor, each of which was challenged by the Company and upheld in this Court.³

Over the next several years, Company activities, especially repeated firing of Union officials, led the Union to file numerous unfair labor practices with the National Labor Relations Board. After investigation, the NLRB issued a broad complaint and began proceeding to trial. The Company began mass layoffs in early 2001. After laying off recent hires,⁴ the Company had a bargaining unit workforce of approximately 400 regular employees as of mid-April 2001. At that point, the Company began laying off the regular employees in waves over the next six months. In November 2001 the few remaining employees were terminated as the Sumter plant finally closed.

The mass layoffs and the plant closing gave rise to this WARN Act case. This case was filed in December 2001 by the Union and John Levy, one of the bargaining unit employees. The complaint alleged that the Company had failed to give the 60-day notices required by the WARN

³ (1) *Xuasa, Inc. v. International Union*, C.A. No. 04:99-2003 (D.S.C. Nov. 23, 1999), *rev'd*, 224 F.3d 316 (4th Cir. 2000), *cert. denied*, 531 U.S. 1149 (2001), *on remand*, Order of Jan. 25, 2001 (Currie, J.).

(2) *Energys, Inc. v. International Union*, C.A. No. 3:01-3387-22 (D.S.C. Nov. 25, 2002)(Currie, J.)

(3) *Energys, Inc. v. International Union*, C.A. No. 3:02-622-22 (D.S.C. Oct. 23, 2003)(Currie, J.)

⁴ Under the WARN Act, these recent hires did not count in determining when the mass layoff began, because the Act specifically excludes employees of less than 6 months (who are defined as "part-time employees") from being counted in determining WARN Act coverage. 29 U.S.C. § 2101(a).

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is to blame for the violations. *Energys Delaware, Inc. v. Jackson Lewis LLP*, C.A. No. 2004-CP-23-2685 (Greenville County Court of Common Pleas).

He was promptly ordered reinstated by the arbitrator, but the Company refused to comply until this Court upheld the award in 2002. *Energys, Inc. v. International Union, C.A. No. 3:01-3387-22* (D.S.C. Nov. 25, 2002)(Currie, J.)

Answer, attached to Motion for Permission to File amended Answer, Oct. 29, 2003.⁶

of recognition may have violated the National Labor Relations Act.” ¶ 18 of proposed Amended that “the Union was the certified bargaining agent “at all material times, and that the withdrawal examined in this Court, the Company on October 29, 2003 moved to amend its answer to admit two years that its withdrawal of Union recognition had been valid and could not even be to have been illegal because it was procured by the Company. After the Company maintained for withdrawal of recognition, which came to be at the heart of the WARN Act case, is now known petitions from a majority of employees rejecting the Union as their representative. The bargaining representative. The Company claimed it was doing so because it had received in June 2001 that it was unilaterally withdrawing recognition of the Union as collective negotiations were ostensibly proceeding over a new contract, the Company suddenly announced including the Local president.” The 1998 collective bargaining agreement expired. Then, while Gainsharing bonuses continued. As the year wore on, the Company fired several Union officials entity was renamed Energys, Inc. As 201 began, the arbitration and litigation over the In late 2000, there was a management buyout of what was then Yuasa, Inc., and the new events that took place in the months before the plant closing.

However, to understand the WARN Act case, it is necessary to take note of some other

Act to employees who were affected by either the mass layoffs or the plant closing.

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received.

The opt-out and objection periods have now closed. No opt-outs or objections have been approximately 200 former employees of Enersys.

was placed in the Sumter Daily Item, and a mass meeting was held in Sumter attended by

First class mail notice has been sent to each class member. In addition, a newspaper ad

No objection from class members

the courts for measuring a reasonable award.

outcome reflect fully support the request for fees and expenses, and satisfy the factors laid out by

Class counsel submit that the eventual outcome and the efforts it took to achieve that

prevailing in this WARN Act case was a great challenge to plaintiffs' counsel.

"Novelty and difficulty of the questions involved." See pages 8-11. Suffice it to say here that

The details of the WARN Act case will be spelled out in the section below entitled

which made it possible to achieve these other aspects of the overall settlement.

relief on the claims that were before the NLRB. To a large extent, it was this WARN Act case

overall settlement contains full relief for the Gainsharing arbitration claims, as well as excellent

portions of the settlement are not directly within this Court's jurisdiction, it is noteworthy that the

excellent WARN Act relief to every eligible class member. Moreover, although the other

Company's plan and tactics. The result is the settlement now before the Court, which gives

the earlier conflicts described above. Eventually, plaintiffs were able in this case to uncover the

Once the WARN Act case began, it was fought with the same tenacity that characterized

The two types can co-exist, as in this case and as has been approved by the U.S. Supreme Court. This case was undertaken with the express understanding that there would be no fee unless the suit succeeded in obtaining recovery for the class. Therefore, a fee based on a percentage of the class recovery is appropriate. The fact that the defendant is paying the plaintiffs to settle claims for statutory attorneys' fees as well as claims for damages does not diminish the plaintiff class liability for fees; rather, it is in effect a credit toward the common fund and toward the plaintiffs' obligation to pay class counsel. See *Venegas v. Mitchell*, 495 U.S. 82 (1990).

Similarly, Hon. Allison R. Lee of the Richland County Court of Common Pleas recently approved a common fund percentage fee which included a portion that the defendants paid as a statutory attorneys' fee. *Littlefield v. South Carolina Forestry Comm.*, No. 96-CP-40-3447 (Richland Co. June 10, 2002).

There are two main types of attorneys' fee awards: (1) a statutory fee paid by one party to the other party, usually based on a "lodestar," i.e., hours times rate; (2) a common fund fee paid by a class of litigants to its own counsel, usually based on a percentage of the fund or recovery.⁷ This district has typically used the percentage method of calculating fees in common fund cases. For example, the court stated a preference for this method when it awarded a percentage fee from a common fund to Mr. Derfner and other and other lawyers in *Edmonds v. United Condon*, 354 S.C. 634, 583 S.E.2d 430 (2003).

principles. *Baron Data Systems, Inc. v. Lotar*, 297 S.C. 382, 377 S.E.2d 296 (1989), *Ex parte of Barber v. Kimbrell's Co.*, 577 F.2d 216 (4th Cir. 1978). The state courts follow similar based on common fund principles and supported by the factors set forth in the well-known case *Grace & Co., C.A. No. 2:87-1860-8 (D.S.C. Dec. 21, 2001)*. That case awarded a percentage fee state. They have been recently applied by Judge Blatt in *Cnetral Wesleyan College v. W.R.*

The standards for awarding fees are well-known in the federal and state courts of this

Standards for awarding fees

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1. Time and labor required.
2. Novelty and difficulty of the questions involved.
3. Skill required to perform the legal services properly.
4. Preclusion of other employment
5. Customary fee
6. Contingent nature of the matter
7. Time limitations imposed by the circumstances

Inc., 577 F.2d 216, 226 (4th Cir. 1978), also applied in *Central Wesleyan College*:

In addition to ascertaining that the percentage is in the appropriate range, our Circuit has set forth 12 specific factors guiding the determination of a reasonable fee. Barber v. Kimbrell's,

Twelve-factor test

is getting full or nearly full recovery.

the requested percentage is under 34%, still eminently reasonable. Finally, in this case the class fund, which is at the low end of the typical range. Even if the expenses requested are added in, reasonable, while others ranged from 20% to 50%. The request for fees in this case is 24% of the should be. It reviewed cases and found that some courts used a range of 25% to 33 1/3% as

In *Central Wesleyan College*, at pp. 7-8, the Court also considered what the percentage

attorney's fee award is now favored").

is a common fund in a class settlement, application of a percentage method to calculate an

ABC Television & Appliance Rental, Inc., 1999 WL 1027050 (N.D. W. Va. 1999) ("Where there

1995); *Goldenberg v. Marriott PLP Corp.*, 33 F.Supp.2d 434, 438 (D. Md. 1998); *Kidrick v.*

in this circuit. See, e.g., *Strang v. JHM Mortgage Sec. Ltd. Part.*, 890 F.Supp. 499, 502 (E.D. Va.

latter case, Judge cited numerous recent cases doing the same, including decisions by other courts

States, 658 F.Supp. 1126, 1143 (D.S.C. 1987); see also *Central Wesleyan College, supra*. In the

The Company claimed it had satisfied the WARN Act because of certain notices it did

difficulties.

statute. In addition to predictable issues of law and fact, however, this case exhibited special

The WARN Act has been called a seemingly straightforward but actually complex

2. Novelty and difficulty of the questions involved.

150 class members.

in office of Derfner, Altman & Willborn, has spent substantial amounts of time talking to at least

400 hours, and Peter Willborn has approximately 200. In addition, Guadalupe Diaz, a paralegal

this case is over 1500 hours, with more to come. Derfner has nearly 900 hours, Koslow has over

As shown by the declarations of Armand Derfner and Stephen Koslow, attorneys' time in

agency issues relating to the National Labor Relations Board.

to enforce a subpoena in the Southern District of New York), and dealing with administrative

memoranda, extensive factual investigation, discovery, motions (including ancillary proceedings

process has occupied a good part of a third year. The time was spent in legal analysis and

This case was intensively litigated for two years before settlement, and the settlement

1. Time and labor required.

These will now be reviewed in turn.

8. Amount involved and results obtained
9. Experience, Reputation and ability of counsel
10. Undesirability of the case
11. Nature and length of the professional relationship
12. Awards in similar cases

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This Court held that the merits of the Company's reason for closing the plant was not at issue in this case except insofar as it bore on the issues of timing and pretext.⁸

The Company resisted this discovery at every step. This Court was required to enter several Orders authorizing the discovery, denying reconsideration, and reiterating its directions.⁸ Plaintiffs' discovery from Morgan Stanley was resisted both by Enersys in this Court and by Morgan Stanley in New York. Only after this Court entered its Orders and a district judge in

owner, the Wall Street firm of Morgan Stanley. internal financial and other records of the Company and its investment banker and principal Company's stated reason of a sudden market decline was a pretext that would be contradicted by shutdown at least since the management buyout in late 2000. The Union believed that the Plaintiffs alleged these notices were deceptive, and that the plant had been slated for of an unexpected sudden decline in the market for a certain line of batteries.

closing. The Company asserted that it was only later that it decided to close the plant, because certain early mass layoff notices, which said the layoffs were temporary and the plant was not temporary or permanent and whether a plant is being closed. Here, the Company did issue The WARN Act requires that any notices of mass layoffs say whether the layoffs are

a) The timing of the decision to close the plant.

bargaining agent. close the plant, and (2) the Company's withdrawal of recognition of the Union as collective comply with the Act. These were two main issues: (1) the timing of the Company's decision to issue. In order to prevail, plaintiffs had to show that these notices did not comply or substantially

New York entered an Order enforcing plaintiffs' subpoena could this discovery go forward. Plaintiffs obtained thousands of pages of documents from the defendant and from Morgan Stanley, and were able to depose key witnesses in Sumter, Reading, Pa. (EnerSys top officials), and New York (the Morgan Stanley partner in charge of EnerSys).

Getting access to this information was not the only problem. Knowing what information to get and how to get it, and then analyzing the information required plaintiffs' counsel to gain familiarity with complex issues of corporate finance. In this effort, plaintiffs retained a CPA who is financial analyst and expert in corporate management and finance. This expert helped counsel prepare for all the depositions in New York City and Reading, Pennsylvania. The expert consultant also attended all these depositions so that he could actively guide counsel in directing follow-up questions throughout the course of each deposition.

b) Withdrawal of Union recognition

The WARN Act provides that notice goes to the collective bargaining representative if there is one, but otherwise to the individual employees. In June 2001, as noted above, the Company withdrew recognition of the Union as collective bargaining agent. Thereafter, it ignored the Union but sent some notices directly to employees and claimed this complied with the WARN Act.

The plaintiffs alleged the withdrawal of recognition was illegal and sought discovery about the circumstances. The Company resisted this discovery on the ground that this was an NLRB unfair labor practice issue, that it was preempted by NLRB jurisdiction, and was irrelevant in this WARN Act case.

The expenses in this case were large especially because of the need to retain the services of the financial expert, who helped prepare for and attended all the depositions in New York and Pennsylvania, as well as analyzing the thousands of pages of documents provided by

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This case required expertise in many areas of the law, including the substantive issues under the WARN Act, administrative law issues relating to the NLRB, and procedural expertise. The discovery issues required great investigative skill. In addition to the lawyers, plaintiffs also relied heavily on the services of an expert in corporate management and finance.⁹ All these

3. Skill required to perform the legal services properly.

Issues like these made this case exceptionally difficult for plaintiffs. Plaintiffs believe that pursuing these two matters – the internal Company records as an indicator of the timing of the plant-closing decision, and the misconduct involved in the claimed withdrawal of recognition – made it possible to achieve an excellent settlement of the WARN Act as well as the other disputes. Plaintiffs also believe that the WARN Act case was the linchpin that made it possible. Skill required to perform the legal services properly.

Even after this Court entered its Orders compelling discovery on the withdrawal of recognition, the Company kept resisting. It was only after repeated motions and an emergency hearing and Order by this Court that plaintiffs were able to uncover the secret Company operatives and learn the truth. At that point the Company moved to amend its answer to admit that the withdrawal of recognition was invalid.

Eventually this issue resulted in the NLRB's participating in this case over the discovery issue, with the potential for an interlocutory appeal over the discovery issues. The NLRB's involvement led to complex negotiations and orders relating to the permissible scope of discovery.

the defendant and by Morgan Stanley.

For the firm of Derfner, Altman & Wilborn, this case was entirely contingent except that most of the expenses were borne by the Union. The firm has expended over 1000 hours with no expectation of compensation unless the case was successful.

6. Contingent nature of the matter

As noted above, the customary fee in a common fund case ranges from 25% to 33 1/3% or higher. Here the fee is 24% of the fund, and even if expenses are combined with fees, the percentage is still under 34%.

5. Customary fee

Other employment was not precluded, but the intensity and time pressure of this litigation made it harder to pursue other major matters at the same time.

4. Preclusion of other employment

Issues were inter-related and increased the need for expertise in the many areas involved. Plaintiffs were opposed by a premier law firm of several hundred lawyers, among the most experienced in defending labor law claims. This defense was augmented by the resources of Wall Street giant Morgan Stanley, with its own attorneys. The defendant also retained a former General Counsel of the NLRB, with the firm of Kirkland & Ellis, to help it keep the issue of withdrawal of union recognition out of this case.

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As noted, the WARN Act relief is full or nearly full relief for the class. There is no deduction for attorneys' fees or costs. The class has been defined as broadly as possible. It includes every employee who was actively working during the last six and one-half months of the plant and who was terminated for non-disciplinary reasons.

The total of the overall settlement is \$7,750,000, which includes settling matters not before this Court (the arbitration award and the NLRB case).

The total amount allocated to the WARN Act is approximately \$2,300,000. If this Court approves this request for fees and expenses, that means the amount going directly to class members for the WARN Act is an estimated \$1.5 million. This is based on an average of \$3700 for approximately 400 employees. It includes 100 cents on the dollar for the basic claim, added money for medical benefits, and pre-judgment interest.

While the other portions of the overall settlement are not before this Court, it is worth noting that every class member in this case is also benefiting from other portions of the overall settlement. The NLRB portion of the settlement will pay each employee \$50+ for each month of employment by Enersys and its predecessor companies. Thus, the total benefits under this settlement will exceed \$10,000 for a ten-year employee, and will approach or exceed \$20,000 for a 20-year employee.

As of early 2003, the Company had offered to settle all the cases for \$3,000,000. This

8. Amount involved and results obtained

See No. 4 above.

7. Time limitations imposed by the circumstances

Mr. Koslow is one of the most experienced labor lawyers in the country. He has had extensive trial and appellate experience with the National Labor Relations Board, United States Department of Justice, in private practice representing management, and now as staff counsel for an International Union.

Forde.

Both main counsel, Armand Derfner and Stephen Koslow, are recognized leaders of their Bars, and have been for many years. Mr. Derfner has won cases in this Court, the Supreme Court of the United States, the South Carolina Supreme Court, and other state and federal trial and appellate courts. He has been recognized as an outstanding attorney by this Court in awarding fees in *Grass Roots Leadership v. Beasley*, C.A. No. 3:950345-0 (D.S.C. July 30, 1997)(Perry, J.). In 2002 he and three other lawyers were named Trial Lawyer of the Year by Trial Lawyers for Public Justice, for work in a Mississippi higher education desegregation case, *Ayers v. Fordice*.

9. Experience, Reputation and ability of counsel

offer apparently included \$500,000 for the WARN Act. The actual settlement for the WARN Act is therefore three times the earlier figure. In addition, the NLRB portion of the settlement is more than twice the earlier proposal, and the Gainsharing amount is also substantially more than the earlier proposal.

In addition to the monetary results, this case has revealed unconscionable tactics that are often suspected in anti-Union campaigns but are rarely discovered. That is an important result here, and vindicates the employees who were the victims of the violations.

Derfner's Declaration indicates he has been approved by another federal court at approximately \$400 per hour. Koslow's Declaration cites Washington, DC, standard rates for fee awards at a range of \$550.

Conclusion

Numerous cases all reflect that this request of 24% of a fund is at the low end of the appropriate range. Even adding the expense request brings the percentage up to less than 35%. If the fee were computed on a "lodestar" basis, it would likely produce a greater fee. In 1987, in the *Edmonds* Order, the Court noted that calculating an effective hourly rate for a complex class action "would require utilizing an hourly rate of \$400-\$450 per professional hour." *Edmonds v. United States*, 658 F.Supp. 1126, 1141 n.30 (D.S.C. 1987). Even if that 17-year old rate were used in this case, the total lodestar for the more than 1500 lawyer hours (with more to come) would be \$600,000-675,000.¹⁰

12. Awards in similar cases.

Mr. Koslow is staff counsel for plaintiff IUE-CWA, which was but is no longer the union representative of the class members. Derfner, Altman & Wilborn had no relationship with the Union or the class before becoming involved in the IUE-CWA v. EnerSys litigation.

11. Nature and length of the professional relationship

This case was contingent and it was on behalf of a Union in a state where unions are not popular.

10. Undesirability of the case

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Charleston, South Carolina
July 14, 2004

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Respectfully submitted,

Petitioners submit that the requested amount of \$500,000 for fees and \$300,000 for costs and expenses is a reasonable amount, especially when it still leaves the class members with full or nearly full recovery.

041finalpetition.july1304.wpd

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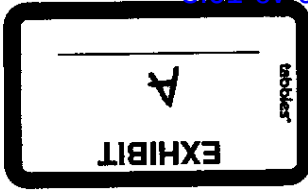
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I hereby certify that the foregoing Plaintiffs' Petition for Attorneys' Fees and Costs has been served upon the following counsel of record by placing same in the United States Mail, postage prepaid, this 17th day of July, 2004, addressed to:

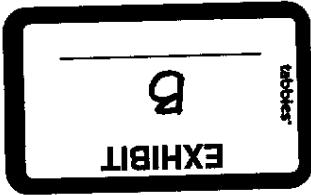
) IUE-CWA, AFL-CIO, its Local 175, and
JOHN LEVY,
Plaintiffs,
-vs.-
ENERSYS, INC.,
Defendant.
)
)
)
)
)
) CERTIFICATE OF SERVICE
)
)
)
) Case No.: 3:01-4766-10

IUE-CWA, ET AL. v. ENERSYS, INC.
C.A. No. 3:01-4766-10
IUE-CWA EXPENSES

PROVIDER	DESCRIPTION	INVOICE BILLING DATE	AMOUNT
Jones, Day	Mediation Services	04/15/2002	12510
Jones, Day	Mediation Services	05/15/2002	122
Jones, Day	Mediation Services	03/18/2002	1203
Joseph Mayer	Legal	04/30/2001	4243
Joseph Mayer	Legal	07/13/2001	1010
Joseph Mayer	Legal	12/21/2001	1970
Joseph Mayer	Legal	01/02/2003	1430
Gene Leeb, CPA	Financial Expert	11/10/2003	19080
Gene Leeb, CPA	Financial Expert	10/20/2003	11293
Gene Leeb, CPA	Financial Expert	09/23/2003	11160
Gene Leeb, CPA	Financial Expert	10/03/2003	14760
Gene Leeb, CPA	Financial Expert	09/05/2003	15840
Gene Leeb, CPA	Financial Expert	03/08/2003	2520
Gene Leeb, CPA	Financial Expert	02/03/2003	4140
Gene Leeb, CPA	Financial Expert	07/30/2003	1800
Gene Leeb, CPA	Financial Expert	08/15/2002	5235
Gene Leeb, CPA	Financial Expert	07/30/2002	480
Gene Leeb, CPA	Financial Expert	06/26/2002	2880
Gene Leeb, CPA	Financial Expert	05/24/2002	25980
Gene Leeb, CPA	Financial Expert	05/11/2002	9754
Gene Leeb, CPA	Financial Expert	04/27/2002	9500
Gene Leeb, CPA	Financial Expert	02/22/2003	14940
Gene Leeb, CPA	Financial Expert	11/01/2002	1080
Gene Leeb, CPA	Financial Expert	10/18/2002	2742
Gene Leeb, CPA	Financial Expert	07/30/2002	1800
Gene Leeb, CPA	Financial Expert	04/27/2002	9300
Gene Leeb, CPA	Financial Expert	11/25/2003	10539
Gene Leeb, CPA	Financial Expert	04/18/2002	12840
Gene Leeb, CPA	Financial Expert	06/01/2000	15
Kennedy, Schwartz	Legal	05/01/2003	622
Kennedy, Schwartz	Legal	01/01/2003	577
Kennedy, Schwartz	Legal	08/01/2003	22
Kennedy, Schwartz	Legal	11/01/2003	332
Kennedy, Schwartz	Legal	07/08/2003	1687
Kennedy, Schwartz	Fingerprinting	10/23/2003	154
Cingular	Galliard cell phone	09/27/2003	37
Sandford Lewis	Legal	10/30/2003	1015
Sandford Lewis	Legal	09/05/2001	1125
Discovery Copy	Copying	09/03/2002	1208
Ray Schwartz Reporting	Dep. Transcript	10/22/2003	1826
RBI	Investigative Services	03/05/2002	771
RMCis	Financial Expert	06/30/2002	900
RMCis	Financial Expert	05/31/2002	3000
Felth & Zell	Legal	08/02/2001	5425
Felth & Zell	Legal	06/30/2001	350
Inn At Reading	S. Koslow's travel exp.	11/05/2003	1222



PROVIDER	DESCRIPTION	INVOICE BILLING DATE	AMOUNT
Inn At Reading	S.Koslow's travel exp.	11/19/2003	1272
Inn At Reading	Dep. Room	11/11/2003	1855
Inn At Reading	S.Koslow's travel exp.	11/21/2003	504
Fairfield Inn	S.Koslow's travel exp.	10/31/2003	417
Cingular	Galliard cell phone	01/27/2004	59
Cingular	Galliard cell phone	12/27/2003	45
William Want	Legal	11/19/2003	2677
The Sumter Item	Meeting Notice	11/18/2003	248
The Sumter Item	Meeting Notice	11/18/2003	99
Gallagher Reporting	Dep. Transcript	01/05/2004	700
Gallagher Reporting	Dep. Transcript	01/05/2004	1297
Gallagher Reporting	Dep. Transcript	01/12/2004	464
IUE-CWA	Copying	11/07/01-07/07/04	8625
Roger Doolittle	Legal	12/01/2003	2044
Sumter Item	Meeting Notice	06/09/2004	111
Cingular	Galliard cell phone	04/27/2004	280
Cingular	Galliard cell phone	05/27/2004	299
Cingular	Galliard cell phone	06/27/2004	79
			251,514.00



Box 351 • Westmont IL 60559 • Phone 630-964-5030

date	time	description
10/20/03	1	Miscellaneous
10/21/03	2	Gavant Q's review docs
10/22/03	2	Review Docs, internet research, discussions
10/24/03	3	Review Docs, Fry Dep
10/25/03	2	
10/26/03	0	
10/27/03	0	Drive to SC (n/c for time, 12 hrs)
10/28/03	15	Work on and meet w Stephen re Gavant dep
10/29/03	10	Deps
10/30/03	10	Deps
10/31/03	0	Drive Penn (nc for time 8 hrs)
11/01/03	2	Miscellaneous inc discuss w Stephen
11/02/03	6	
11/03/03	8	Meet w energys re docs
11/04/03	12	Work on new docs from chersys
11/05/03	12	Dep McManus Zuidema
11/06/03	13	Dep Zuidema Gavant
11/07/03	8	Dep Gavant Fries
10/08/03	0	Drive Chicago 11 hrs n/c
Total		
	106	x\$180/hr
\$19,080		
Expenses on trip to SC Penn		
Less 106x\$60 deferred fee payment		
(\$6,360)		
3,398		
\$16,118		
Total fee requested at this time		
Milage (2637 x .35) 922.95		
Hotel SC 417.36		
Per Diem 19 days @40 760.00		
Hotel Penn 10/31 121.50		
Hotel Penn less food chges 1149.38		
Tolls 26.75		

Here is our billing for the 3 weeks ended, Sat, November 8, 2003

Dear Stephen,

Stephen Koslow
IUE-CWA
Re Energys complainis
Via fax

LEEB ASSOCIATES INC
November 10, 2003

Box 351 - Westmont IL 60559 - Phone 630-964-5030

10/24/03

PL

approved

\$8,358.91

\$8,820
-2,478
2,478
2,478.91
(2,940)

Mileage (1893 x .35) 694.05
Hotel Penn Q, ID 442.84
Hotel Washington 898.65
Meals Washington 180.00
Hotel NY 929.96
Meals NY 166.16
Tips 20.00
Tolls 52.10
313.56
77.97 + 71.42

Total fee requested at this time

Total 49 x \$180/hr
Expenses on trip to Washington and NY for Fry Dep
Less 49x\$60 deferred fee payment

date	time	description
10/04/03	5	Drive to DC (n/c & time) Meet w Stephen/Armand re Fry dep
10/05/03	12	Sort and read Morgan Stanley Docs with Stephen re Fry dep
10/06/03	10	Sort and read Morgan Stanley Docs re Fry dep
10/07/03	7	Drive NY (n/c & time) prepare fry
10/08/03	9	Depose Fry Drive to DC (n/c & time)
10/09/03	2	Work on DB re Fry/Gavran drive Chicago (n/c & time)
10/14/03	1	Misc re Fry exhibits
10/15/03	1	Misc re Fry
10/16/03	2	Misc re Fry
10/17/03	0	
10/18/03	0	

Here is our billing for the 2 weeks ended, Sat, October 18, 2003

Dear Stephen,

Stephen Koslow
IUE-CWA
Re Enersys complaints
Via fax

LEEB ASSOCIATES INC
Monday, October 20, 2003

Box 351 • Westmont IL 60559 • Phone 630-964-5030

10/6/03
approved
\$9,840

4,290

\$14,760

Total for Gene 82 x \$180/hr
Less 82x\$60 deferred payment
Total requested at this time

date	time	description
09/22/03	8	Sort and read Morgan StanleyDoc
09/23/03	6	Sort and read Morgan StanleyDoc
09/24/03	8	Sort and read Morgan StanleyDoc
09/25/03	0	
09/26/03	0	
09/27/03	12	Sort and read Morgan StanleyDoc, exhibits
09/28/03	8	Sort and read Morgan StanleyDoc, exhibits
9/29/03	9	Sort and read Morgan StanleyDoc, exhibits
9/30/03	7	Sort and read Morgan StanleyDoc, exhibits
10/1/03	9	Sort and read Morgan StanleyDoc, exhibits
10/2/03	9	Sort and read Morgan StanleyDoc, exhibits
10/3/03	6	Sort and read Morgan StanleyDoc, exhibits

Here is our billing for the 2 weeks ended, Friday, October 3, 2003

Dear Stephen,

Stephen Koslow
IUE-CWA
Re Enernys complains
Via fax

LEEB ASSOCIATES INC
Friday, October 3, 2003

Box 351 • Westmont IL 60559 • Phone 630-964-5030

approved
9/24/03
this is the
when
Fed Ct case

\$11,160

\$16,740
5,580

Total requested at this time

Less \$3,600 deferred payment

Total for Gene 93 x \$180/hr

09/05/03	6	Sort and read Morgan Stanley Doc
09/06/03	4	Sort and read Morgan Stanley Doc
09/08/03	4	Sort and read Morgan Stanley Doc
09/09/03	9	Sort and read Morgan Stanley Doc, Start exhibits
09/10/03	9	Exhibits
09/12/03	7	Sort and read Morgan Stanley Doc
09/13/03	6	Sort and read Morgan Stanley Doc
09/15/03	10	Sort and read Morgan Stanley Doc
09/16/03	9	Sort and read Morgan Stanley Doc
09/17/03	9	Exhibits, Subpoenas
09/18/03	12	Exhibits, Subpoenas
09/20/03	8	Sort and read Morgan Stanley Doc

date time description

Here is our billing for the 2 weeks ended, Saturday September 20, 2003.

Dear Stephen,

Stephen Koslow
IUE-CWA
Re Enersys complaints
Via fax

LEE ASSOCIATES INC
Tuesday, September 23, 2003

Box 351 • Westmont IL 60559 • Phone 630-964-5030

Scott - Please
do a BPP - use
is Enersys - ~~the~~
when case #

\$15,840
\$2,280
\$10,560

Total for Gene 88 x \$180/hr
Less 88x\$60 deferred payment
Total requested at this time

date	time	description
08/16/03	6	Start to sort Morgan Stanley Docs
08/19/03	4	Start to sort Morgan Stanley Docs
08/18/03	10	Sort and read Morgan Stanley Docs
08/20/03	9	Sort and read Morgan Stanley Docs
08/25/03	7	Sort and read Morgan Stanley Docs
08/27/03	9	Sort and read Morgan Stanley Docs
08/28/03	8	Sort and read Morgan Stanley Docs, conference
08/30/03	9	Sort and read Morgan Stanley Docs
09/01/03	5	Sort and read Morgan Stanley Docs
09/03/03	8	Sort and read Morgan Stanley Docs, conference
09/04/03	4	Sort and read Morgan Stanley Docs

Here is our billing for the 3 weeks ended, Thursday September 4, 2003, Friday and Saturday of this week will be on next bill:

Dear Stephen,

Stephen Koslow
LUE-CWA
Re Enersys complains
Via fax

LEEB ASSOCIATES INC
Friday, September 5, 2003

Box 351 • Westmont IL 60559 • Phone 630-964-5030

*Best -
Stephen Lee
approved these
please do a
B.H. Horn.
1/4/04*

date	time	description
02/22/03	12	Advice memo
03/08/03	2	email and internet research
Total for Gene 14 x \$180/hr		
Less 14x\$60 deferred payment		
Total requested at this time		
\$2,520		
840		
\$1,680		

Here is our billing for the 2 weeks ended March 8, 2003:

Dear Stephen,

Stephen Koslow
IUE-CWA
Re Enersys complaints
Via fax

LEE ASSOCIATES INC
Saturday, March 8 2003

Box 351 • Westmont IL 60559 • Phone 630-964-5030

date	time	description
02/04/03	6	Various internet research
02/05/03	10	Time line and MS deposition questions, Advice Memo, Cost example
02/06/03	6	Time line and MS deposition questions, Advice Memo, Cost example
02/07/03	2	Misc work and phone calls
02/09/03	10	Time line and MS deposition questions, Advice Memo, Cost example
02/10/03	4	Internet research, time line
02/11/03	8	MS dep, and time line various conversations, batteryman etc
02/12/03		
02/13/03		
02/14/03		
02/17/03		
02/18/03	8	Advice memo
02/19/03	4	DD section
02/20/03	4	Advice memo
02/21/03	9	Advice memo
02/22/03	12	Advice memo
Total for Gene		
83 x \$180/hr		
Less 23x\$60 deferred payment		
4,980		
Total requested at this time		
\$9,960		

Here is our billing for the 3 weeks ended February 22, 2003

Dear Stephen,

Stephen Koslow
IUE-CWA
Re Enersys complaints
Via fax

LEEBA ASSOCIATES INC
Saturday, February 22, 2003

Box 351 • Westmont IL 60559 • Phone 630-964-5030

date	time	description
01/21/03	6	Prep for conference
01/22/03	6	Conference w Armand & Steve
01/23/03	3	Conference w Armand & Steve
01/24-25/03	4	Internet research, various conversations
01/26-31/03	4	Various reading, conversations and research
Total for Gene		
23 x \$180/hr		
Less 23x\$60 deferred payment		
Total requested at this time		
\$4,140		
1,380		
\$2,760		

Here is our billing for the 2 weeks ended February 1, 2003

Dear Stephen,

Stephen Koslow
IUE-CWA
Re Enersys complaints
Via fax

LEEBA ASSOCIATES INC
Monday, February 3, 2003

Box 351 • Westmont IL 60559 • Phone 630-964-5030

Here is our billing for the 2 weeks ended Nov 1, 2002.

date	time	description
10/21/02	3	Phone discussion with Stephen re letter to region, review documents
10/22/02	2	Phone discussion with Stephen re letter to region, review docs, write paragraph
Total for Gene	5	x \$180/hr
		\$1,080

Stephen Koslow
IUE-CWA
Re Enersys complaints
Via fax
Dear Stephen,

LEEB ASSOCIATES INC
Friday, November 1, 2002

Box 351 • Westmont IL 60559 • Phone 630-964-5030

date	time	description	
10/09/02	2	Pre-conference meeting with Peter & Steve	
10/10/02	10	Conference with region	
	12	Total for Gene	\$2,160
			89
			268
			119
			16
			90
			<u>\$2,742</u>

Requested at this time

Hotel
Airfare
Rental car
Gasoline
Livery in Chicago

Here is our billing for the 2 weeks ended October 18, 2002.

Dear Stephen,

Stephen Koslow
IUE-CWA
Re Enersys complains
Via fax

LEEB ASSOCIATES INC
Friday, October 18, 2002

Box 351 • Westmont IL 60558 • Phone 630-964-5030

Total for Gene	10	x \$180/hr	\$1,800
Various dates	10	various phone discussions with Stephen, Raj Mohan, Jane North and drafting of 9/12/02 letter to Region re minimum tasks necessary	
date	time	description	

Here is our billing for the 2 weeks ended September 14, 2002.

Stephen Koslow
IUE-CWA
Re Enersys complaints
Via fax
Dear Stephen,

LEEB ASSOCIATES INC
Tuesday, July 30, 2002

Box 351 • Westmont IL 60559 • Phone 830-964-5030

8/21/02
approved
\$5,235

Total requested at this time

*(286 SW airfare, 130 cab DC, 90 livery Chicago= 506)

Hotel
Travel* (1450 miles x 32¢)
Meals
Cash expenses, mostly tips
Total expenses
\$1,095

Travel expenses

\$4,140

date	time	description
08/07/02	1	Review items sent by Stephen
08/08/02	5	Review and preparation for conference w Jane North
08/09/02	3	Conference w Jane North; discussions with Koslow
08/11/02	3	Preparation for conference w Raj Mohan
08/12/02	1	Preparation for conference w Raj Mohan
8/13/02	8	Conference w Raj Mohan/ Koslow & Mitchell
8/14/02	2	Conference w Raj Mohan/ Koslow

Here is our billing for the 3 weeks ended August 17, 2002

Dear Stephen,

Via fax

Re Energys complaints

IUE-CWA
Stephen Koslow

LEEB ASSOCIATES INC
Thursday, August 15, 2002

Box 351 • Westmont IL 60559 • Phone 630-984-5030

*Best - please do
BAP's for those
minutes N/A
for Group & one
for H&B - (correct)
for CA - 33464.
Thanks. Mike*

Total for Michelle	4	x \$120/hr	\$480
Various	4	research acquisition of capacity through merger after 12/31/01	
date	time	description	

Here is our billing for the 2 weeks ended July 27, 2002.

Dear Stephen,

Stephen Koslow
IUE-CWA
Re Enersys complains
Via fax

LEE ASSOCIATES INC
Tuesday, July 30, 2002

Stephen Koslow
IUE-CWA
Re: EnerSys complains
via email

Dear Stephen,

Here is our billing for the two weeks ended, June 22, 2002. There was no billing for the previous 2 weeks.

date	Time	no chg
06/12/02	2	
05/13/02	6	
05/14/02	1	
05/17/02	1	
05/18/02	3	
05/18/02	2	
05/19-21/02	1	
05/17/02	1	
05/18/02	3	
05/18/02	2	
05/19-21/02	1	

Total Code 16 16 x \$180

Total requested at this time

Please disregard 1st fax

\$2,880

\$2,880

approved
ph

6/26/02

Stephen Koslow
IUE-CWA
Re: Enersys complaints
via email

Dear Stephen,

Here is our billing for the two weeks ended, May 24, 2002

date Time no chg

05/12/02 12 Organize info, Letter to NLRB, direct Michelle, Look for BAAN expert, phone w Steve

05/14/02 4 Letter to NLRB, phone with Steve, Michelle

05/15/02 14 Prepare schedule of financial info, various phone with Vince, Dave, Steve, Michelle

05/16/02 8 Read various documents, Prepare schedule of financial info

05/17/02 12 Analysis and preparation of main table, brainstorming w Michelle, various phone

conversations

05/18/02 3 Analysis and preparation of main table

05/19/02 12 Write letter, various

05/20/02 10 Write letter

05/21/02 9 Write letter

05/22/02 12 Write letter

05/23/02 11 Write letter

05/24/02 2 Administration

Total Gene 107 107 x \$180 \$19,260

13-May 8 Ramp up

14-May 8 Catalog Note books

15-May 8 Prepare work sheet

16-May 8 Prepare work sheet

17-May 6 Council with Gene, Review fax from Vince

18-May 2 Various analyses

20-May 8 Research electricity

21-May 8 Electricity

22-May 2

Total Michelle 56 56 x \$120 6,720

Total requested at this time 25,980

approved
5/24/02

Gene

Gene Leeb, visit Kansas City, 4 hours @ \$180
 Travel expenses
 Gene Leeb, Meetings with Region, preparation, 16 hours
 Travel expenses
 Gene Leeb, prepare letter for Region, 17 hours
 Michelle Blazek, research BAAN, 10 hrs @ \$120
 Total requested at this time 9,754

Here is our billing for the two weeks ended, May 11, 2002

Dear Stephen,

Stephen Koslow
 IUE-CWA
 Re: Enersys complaints
 via email

Stephen Koslow
IUE-CWA
Re: Enersys complaints
via email

Dear Stephen,

Here is our billing for the two weeks ended, April 27, 2002

Review and analyze documents, various phone and email communications, organize and prepare
for trial, phone conferences with NLRB.

Gene Leeb, 49 hours @ \$180

Michelle Blazek 4 hrs @ \$120

Total requested at this time

\$9,300

480

\$8,820

Box 351 * Westmont IL 60559 * Phone 630-964-5030

LEEB ASSOCIATES INC
Thursday, April 18, 2002

Stephen Koslow
IUE-CWA
Re: Enersys complaints
via email

Dear Stephen,

Here is our billing for the two weeks ended, April 13, 2002

Week ended April 6, 2002: review documents, draft subpoena items; various phone and email communications.

Gene Leeb, 36 hours @ \$180

\$6,480

Michelle Blazek 8 hrs @ \$120

960

Week ended April 13, 2002: review documents, final subpoena; prepare and participate in various conferences.

Gene Leeb, 30 hours @ \$180

5,400

Total requested at this time

\$12,840

Scott
Charge to
Wasa/Enersys
NLRB case
4/18/02
Approved
PL

CC: Stephen Koslow

Please do a BAP for the Derfner law firm for a witness payment. Please print out and use my email as the authorization for the payment. The case is the WARN Act case number

From: Peter Mitchell
To: Scott Sommers
Date: 10/20/03 9:26AM
Subject: Fwd: Energys

BILLS APPROVED FOR PAYMENT

COMMUNICATIONS WORKERS OF AMERICA
501 THIRD STREET, N.W.
WASHINGTON, D.C. 20001

DISTRICT /
DEPT.

IUE

DIST / DEPT CODE

015

DATE

October 20, 2003

ADDRESS

1275 K Street, NW, Suite 600

OFFICE / SERIAL

Washington, DC 20005

BAP NUMBER

VENDOR NO.

V150786

VENDOR NAME

Derfner and Wilborn LLP

CUSTOMER ACCOUNT NUMBER

DESCRIPTION

Professional Expenses 1275 K Street (Yuasa/Energys WARN Act Case: 3-01-4766-10)

INVOICE NUMBER	INVOICE DATE	DEPT NO.	ACCOUNT NUMBER	EMPLOYEE #	INVOICE AMOUNT
102003	10/20/03	031	5702-150(110)		98.25
INVOICE NUMBER	INVOICE DATE	DEPT NO.	ACCOUNT NUMBER	EMPLOYEE #	INVOICE AMOUNT
INVOICE NUMBER	INVOICE DATE	DEPT NO.	ACCOUNT NUMBER	EMPLOYEE #	INVOICE AMOUNT
INVOICE NUMBER	INVOICE DATE	DEPT NO.	ACCOUNT NUMBER	EMPLOYEE #	INVOICE AMOUNT
INVOICE NUMBER	INVOICE DATE	DEPT NO.	ACCOUNT NUMBER	EMPLOYEE #	INVOICE AMOUNT
INVOICE NUMBER	INVOICE DATE	DEPT NO.	ACCOUNT NUMBER	EMPLOYEE #	INVOICE AMOUNT
BAP TOTAL					
					98.25

These invoices have been verified and are in proper order for payment.

Scott Sommers

TREASURER

APPROVED BY

Paralegal

TITLE

FOIA/5A

WHITE COPY - HQ YELLOW COPY - DISTRICT

FOR COPY - ORIGINATOR

DATE

October 20, 2003

REVISED (2)